The Limits and Prospects of Military Analogies for Homeland Security:

Goldwater-Nichols and Network-Centric Warfare

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I. Introduction

> *Being in favor of coordination…has come to be like being against sin; everyone lines up on the right side of the question. In fact, coordination has become…a word which defies precise definition but sounds good and brings prestige to the user.*[1]
>
> —Ray Cline, former Deputy Director, CIA
> and Bureau of Intelligence and Research,
> State Department

Since the attacks of 9/11, the United States has sought to strengthen its ability to prevent terrorist attacks and respond to high-consequence events affecting the U.S. homeland. Washington's tactic of choice to improve counterterrorism and homeland security has been to reorganize the federal government. The Department of Homeland Security (DHS) was created in 2003 to rationalize assets and centralize activities related to borders, domestic asset protection, preparedness and response, information integration and dissemination, and science and technology. The Office of the Director of National Intelligence (ODNI) was created to better coordinate the fragmented intelligence community

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1. Cline, Ray S., "Is Intelligence Over-Coordinated?" *Studies in Intelligence*, Vol. 1, No.4 Fall 1957.

Washington's decision to turn to far-reaching reorganization in response to new national security challenges has significant historical precedent. The National Security Act of 1947 created the Department of Defense (DoD) and the Central Intelligence Agency (CIA) to help the United States meet the security challenges it faced after World War II. It took another decade, however, to establish the North Atlantic Treaty Organization (NATO), deterrence and various other critical institutions and concepts to fight the Cold War effectively. For every step in the right direction, there were missteps, trial and error.[2] It took another 39 years before Congress passed the Goldwater-Nichols Act to foster "jointness" among the military services, something that Dwight Eisenhower had lobbied for both as a general and as President.

U.S. efforts to address homeland security and counterterrorism represent the most significant federal reorganization since 1947. But the "big bang" creation of both the DHS and DNI are not sufficient. Reorganization is only a step in refashioning government and society to meet the challenges of global terrorism and homeland security. The failures of Katrina demonstrated significant DHS shortcomings in preparedness, response and recovery. Bad intelligence on Iraq's WMD, the slow progress of the intelligence community in retooling to meet terrorist threats,[3] and the slow pace of information-sharing initiatives[4] tell us more about what the DNI still needs to achieve than what it has accomplished.

To meet the demands of counterterrorism and homeland security, the goal of government reform and of new policies and programs is to:

- Provide greater clarity of roles and missions; improve coordination among stakeholders;

- Enhance the speed and decisiveness of decisionmaking; and

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2. Carafano, James and Paul Rosenzweig, *Winning the Long War*, Heritage Foundation, 2005, p. 11.

3. Baker, James A. and Lee H. Hamilton, *The Iraq Study Group: The Way Forward - A New Approach*, Page 60. Available at http://www.usip.org/isg/iraq_study_group_report/report/1206/iraq_study_group_report.pdf.

4. Reylea, Harold C. and Jeffrey Seifert, *Information Sharing for Homeland Security, A Brief Overview,* Congressional Research Service, January 10, 2005. Available at http://www.fas.org/sgp/crs/RL32597.pdf.

- Promote jointness of purpose within the federal government and between and among the federal government and non-federal actors.

It has become a popular shorthand to describe these aspirations by calling for a Goldwater-Nichols for the homeland. In the 9/11 Commission Report, Secretary of Defense Donald Rumsfeld argued that agencies should "give up some of their existing turf and authority in exchange for a stronger, faster, more efficient government wide joint effort."[5] Subsequently, he called for:

> *A Goldwater-Nichols process for the national security portions of the U.S. Government....The broader [U.S. Government] structure is still in the industrial age and it is not serving us well. It is time to consider…ways to reorganize both the executive and legislative branches, to put us on a more appropriate path for the 21st century. Only a broad, fundamental reorganization is likely to enable federal departments and agencies to function with the speed and agility the times demand.*[6]

General Peter Pace, Chairman of the Joint Chiefs of Staff (JCS), similarly argued that the federal interagency process does a good job of presenting the president with options, but that "…once the president decides to do something, our government goes back to stovepipes for execution. Department of State does what they do, DoD does what we do, the Department of Treasury, etc."[7]

II. Goldwater-Nichols for What?

If Goldwater-Nichols has gained traction in the policy community as an analogy for improving homeland security coordination, it is worth examining what the shorthand implies. Does everyone mean the same thing? What are the limits of the analogy? If the analogy is incomplete or imprecise, what additional or alternative policies need to be pursued to foster "jointness" in U.S. homeland security efforts?

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5. National Commission on Terrorist Attacks on the United States, *The 9/11 Commission Report*, W.W. Norton and Company, July 2004, p. 403.

6. Woodward, Bob, "The World According to Rummy," *Washington Post*, October 8, 2006, p. B05.

7. Garamone, Jim, "Pace Proposes Interagency Goldwater-Nichols Act," *American Forces Press Service*, September 7, 2004.

To answer those questions, it is worth examining the Goldwater-Nichols Act itself.[8]   Goldwater-Nichols sought to improve coordination and effectiveness within the military chain of command and to improve the joint operating effectiveness of the four military service branches. The defense structure was streamlined and unified, and it became a requirement to align strategy and budgets. The major components of Goldwater-Nichols were to:

- Strengthen civilian authority over the military by affirming the primacy of the Secretary of Defense and designating the JCS Chairman as the prime military advisor to the President, National Security Council (NSC) and Secretary of Defense;

- Clarify the chain of command by creating Commanders in Chief (CINCs)/combatant commanders (COCOMs) with full operational authority and by removing the JCS from the chain of command;

- Create a joint officer management system and joint training programs which tied an individual's career advancement to rotations in billets outside of their own service branch;

- Require the President to annually submit a national security strategy;

- Require the Secretary and JCS chief to align strategy and missions against budgets and resources to ensure efficient use of resources; and

- Seek to improve DoD management and administration.

The first two aspects of Goldwater-Nichols made the military chain of command more effective by delineating clear roles and responsibilities. It is in this area that Goldwater-Nichols is generally considered to have achieved the greatest success.[9]   It is important to keep in mind, however, that Goldwater-Nichols only had to deal with creating the chain of command for a limited set of actors: the civilian leadership of the Pentagon, the Joint Chiefs, and the Service branches.

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8.   For a fuller discussion and assessment of major components of Goldwater-Nichols, see Locher, James R., III, "Has It Worked? The Goldwater-Nichols Reorganization Act," *Naval War College Review*, Autumn 2001, Vol. LIV, No. 4.

9.   Ibid.

Homeland security, on the other hand, involves a far greater number of entities with diverse missions and capabilities. The number and nature of players is far more diverse than what Goldwater-Nichols faced in the military context.

The Department of Homeland Security was created by the combination and reorganization of more than 170,000 employees in twenty-two separate agencies that were formerly in the Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, Justice, Transportation, and Treasury, among others. Beyond DHS, and across the federal government, two dozen federal agencies and the military are designated to provide essential support functions for various homeland security scenarios.[10] Outside of the federal government, there are "millions of State and local officials, of which approximately two million are firefighters, police officers, public health officials, [and] EMS professionals who are available to not only respond to events within their jurisdiction, but also respond to events across the country [based on] interstate mutual aid agreements. This "force" of state and local civilian personnel is comparable to the size of the U.S. military."[11] A homeland-security equivalent of Goldwater-Nichols, therefore, would need to attempt to promote jointness at a myriad of levels:

- Within DHS

- Across the federal government

- Among civilian agencies (non intelligence, non-defense)

- Among members of the intelligence community

- Between the U.S. military and federal civilian agencies

- Between federal and non-federal entities

- State and local officials

- The private sector

- NGOs

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10. Department of Homeland Security, *National Response Plan*, December 2004, p.33. Available at http://www.dhs.gov/xlibrary/assets/NRP_FullText.pdf.

11. Foresman, George W., "Statement of the Honorable George W. Foresman, Under Secretary for Preparedness, U.S. Department of Homeland Security, Commission on the National Guard and Reserves," Department of Homeland Security, December 13, 2006.

III. Goldwater-Nichols and the Homeland Security Chain of Command

> *Goldwater-Nichols established very, very clear lines of command authority and responsibilities for subordinate commanders, and that meant a much more effective fighting force.*[12]
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> —General Norman Schwarzkopf
> Commander in Chief of CENTCOM
> during Desert Storm

A Goldwater-Nichols-like approach to homeland security suggests that a similar opportunity exists to clarify roles and create unified authority within a streamlined homeland security chain of command. Unfortunately, creating a homeland security line of command that matches the clarity of the DoD/military chain of command is probably not feasible. The diverse set of actors and the complex relationships involved in homeland security make the pursuit of jointness a far greater challenge than was faced with Goldwater-Nichols.

The National Response Plan (NRP), required by Homeland Security Presidential Directive/HSPD-5, provided a blueprint for responding to national emergencies and to coordinate the response of various local, state, and federal agencies to natural disasters, terrorist attacks, and other high-consequence events.[13] Like Goldwater-Nichols for the military, the NRP sought to delineate roles and responsibilities for homeland security and to lay out a definitive chain of command.

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12. Ibid.

13. White House, "Homeland Security Presidential Directive/HSPD-5: Management of Domestic Incidents," February 2003. Available at http://www.whitehouse.gov/news/releases/2003/02/20030228-9.html. Also see, Bea, Keith, et al., "Federal Emergency Management Policy Changes After Hurricane Katrina: A Summary of Statutory Provisions," Congressional Research Service, RL33729, December 15, 2006. HSPD-5 also established the National Incident Management System (NIMS). NIMS established a framework to guide interagency and intergovernmental responses to complex emergencies. It sought to bring the diverse groups together and better spell out their management roles in a disaster or terrorist attack. The NIMS describes necessary elements of a command structure, but actual structures are not identified ahead of time. It is left up to the participants to work out details and conflicts regarding jurisdiction, roles, and responsibilities at the time of an actual event.

According to the NRP, the Secretary of the Department of Homeland Security holds ultimate responsibility for coordinating all aspects of the federal response to an event of national significance. The NRP indicates that the Secretary can designate a Principal Field Officer (PFO) from any federal agency to act as his representative to coordinate overall federal incident management and ensure seamless integration of federal activities in coordination with state, local, tribal entities, media, non-governmental organizations and the private sector.

As well, the NRP directs the Secretary to assign a Federal Coordinating Officer (FCO) to manage and direct federal assets on the ground at the disaster site.

In effect, the NRP lays out a homeland security chain of command similar to that laid out for the military under Goldwater-Nichols. The Secretary of Homeland Security, or the PFO acting as the Secretary's proxy, plays an equivalent role to the Secretary of Defense, providing civilian leadership for the overall chain of command. The FCO acts as a theater commander and takes on a role similar to that of the CINCs. As well, the NRP borrows a page from Goldwater-Nichols by safeguarding the CINC-like operational prerogatives of FCO by making it clear that the PFO "does not direct or replace the incident command structure established at the incident."[14]

The easy comparisons between the Goldwater-Nichols chain of command and the NRP's chain of command end here. The homeland security apparatus is simply not the military. The distributed nature of homeland security assets and actors; the divide between federal and state, local, and private-sector entities; and the unique standalone role of the military prevent federal homeland security officials from having decisive command-and-control authority over assets and actors involved in the homeland security mission.

This fragmentation is evident in the responsibilities that the NRP holds separate from the senior homeland security official/PFO. According to these "carve outs," the DHS Secretary/PFO does not have "directive

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14. National Response Plan, op. cit.: 33.

authority" over the Senior Federal Law Enforcement Officer (SFLEO),[15, 16] does not have authority over the state and local incident command structure or other federal and state officials, and "other federal incident management officials retain their authorities as defined in existing statutes and directives." As well, military assets remain within their own chain of command reporting to the Secretary of Defense and the President.

Similarly, the homeland security FCO role is far weaker than that of the CINC. The FCO does not have authority over federal law enforcement assets (which are directed by the Department of Justice [DoJ]), military assets (which remain under DoD control), or non-federal actors including state, local, tribal and private-sector entities.

The carve-outs in the NRP mean that senior homeland security officials lack control over significant homeland security assets and capabilities: in effect, "you're in charge of everything, except for the things that you're not in charge of." This falls far short of the decisive authority granted to the Secretary of Defense and the CINCs under Goldwater-Nichols.

Herding Cats: Katrina and the Challenge of Coordination

The limitations of the NRP, the lack of definitive chain of command, and the difficulty of coordinating homeland security activities among myriad homeland security actors was in clear evidence during the response to Hurricane Katrina. A number of specific examples of coordination problems between various homeland security actors provides a better understanding of the complexity of the problem.[17]

DHS and DoD. Congressional investigations into Hurricane Katrina[18] examined coordination problems between DHS and the DoD. In one

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15. Ibid, p. 10. Senior Federal Law Enforcement Official, SFLEO, is part of the Joint Field Office (JFO) structure. The PFO does not have the authority to direct federal law enforcement. There is always a separate law enforcement chain of command.

16. U.S. Congress, "2007 Homeland Security Appropriations Conference Report," P.L. 109-295, October 2006. p. 43-45. Available at http://frwebgate.access.gpo. gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:h5441enr.txt.pdf.

17. Most of the examples described herein are drawn from Cooper, Christopher and Robert Block, *Disaster – Hurricane Katrina and the Failure of Homeland Security,* Times Books, Henry Holt and Company, 2006.

18. Select Bipartisan Committee, "A Failure of Initiative, Final Report of the

example, DHS officials conveyed a request from Homeland Security Secretary Michael Chertoff seeking updated information on the New Orleans levees, the status of shelters, and DoD search-and-rescue missions. A response email from the Office of the Secretary of Defense expressed confusion as to why DHS was seeking such information, as the Federal Emergency Management Administration (FEMA, which became part of DHS after DHS' creation) had not yet even generated requests for these missions for DoD. While DoD and FEMA eventually resolved their conflict and worked out a system to streamline communications and requests for aid, initial coordination between the two agencies was poor.

DHS and DoJ. In the original NRP, the DoJ and DHS jointly share responsibility for providing federal support to state and local security and public-safety officials. After Katrina, local authorities were overwhelmed with rescue missions and desperately needed federal assistance to back up state and local police. A senior Immigration and Customs Enforcement (ICE) officer from DHS and the FBI Special Agent in Charge acted jointly as the SFLEO on the ground. Overlapping responsibility and bureaucratic rivalry between DHS and the FBI/DoJ hampered coordination and delayed response. Eventually, the FBI/DoJ took sole control as the SFLEO. When the NRP was revised in May 2006, DoJ was made the sole lead agency for providing federal law enforcement support to state and local officials.[19]

Federal and State. Significant coordination issues arose between the federal government and the affected states.[20] All aid requests from Louisiana to the military had to pass through FEMA before going to DoD. Exasperated Louisiana officials eventually abandoned the cumbersome process and submitted requests directly to DoD.

Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina," U.S. House of Representatives, 109th Congress, 2nd session, February 16, 2006. Available at http://a257.g.akamaitech.net/7/257/2422/15feb20061230/www.gpoaccess.gov/katrinareport/cover.pdf.

19. National Response Plan, op. cit. Also see Department of Homeland Security, "Notice of Change to the National Response Plan," May 2006. Available at http://www.dhs.gov/xprepresp/committees/editorial_0566.shtm.

20. Cooper and Block, op. cit.

Homeland Security Operations Center (HSOC).   In the first days after Hurricane Katrina, the HSOC failed to report the levees had broken, even after the National Weather Service had reported the breaches many hours earlier.   HSOC leadership repeatedly mistook the New Orleans convention center and the Superdome for the same building, which led to mistakes in estimating the number of people in need of relief and evacuation.   The HSOC repeatedly delayed or prevented accurate information reaching more senior decision makers because it refused to trust valuable information that originated from outside of its chain of command and preferred channels.

Federal and Private Sector.   Soon after Katrina hit, Wal-Mart called DHS to report looting at one of its stores in New Orleans.   A creative DHS employee turned the situation into an opportunity to get Wal-Mart to agree to provide water and other necessary supplies for victims of the hurricane and flooding.   In addition, he challenged the company to find a way to track all supplies even though the computer systems were down.   DHS would reimburse Wal-Mart later for the costs of whatever it provided.   Eventually, the employee was chastised by DHS superiors for circumventing normal procurement channels, and DHS quietly paid Wal-Mart $300,000 to end the contract.[21]

During Hurricane Katrina, the federal government launched the National Emergency Resource Registry, an online resource to allow companies to offer or contribute goods and services for relief efforts. Nearly 80,000 pledges and donations came in, but DHS acted on fewer than ten percent of the pledges.[22]   Due to poor communication between the government and the private sector, goodwill either choked the system with unnecessary items or failed to provide what was needed.   DHS' web site did not specify what items were needed for collection.   No one, for example, foresaw the immense need for diapers and baby formula.

The diverse set of actors and the complex relationships involved in homeland security make the pursuit of jointness a greater challenge

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21. Ibid.

22. For a discussion on how the private sector and the federal government can work together using everyday technology to improve homeland security preparedness, see Prieto, Daniel B., "On Harnessing Technology: Why eBay Matters for Homeland Security," *San Francisco Chronicle*, June 23, 2006.

than was faced with Goldwater-Nichols. As such, there are clear limits to the Goldwater-Nichols analogy, and it will only go so far in indicating legislative, policy, organizational, and programmatic fixes for homeland security jointness and coordination. To the extent that the Goldwater-Nichols analogy falls short, it is worth identifying where the analogy is most problematic as well as examining alternative approaches to foster jointness.

Post Katrina: The Limits of an Organizational Fix

DHS and Congress pursued changes to the NRP, FEMA, and the use of the military in a domestic context in an attempt to address some of the chain-of-command problems encountered after Katrina.

Changes to the NRP. After Katrina, criticism of the NRP was widespread. The Office of the Vice President described the plan as an "acronym-heavy document…not easily accessible to the first-time user."[23] Paul McHale, the Assistant Secretary of Defense for Homeland Defense, argued that, "We have to bring that high-level document down to a more practical level."[24] After Katrina, the NRP was changed to make it clearer and eliminate some of the confusion that arose during Katrina. To address confusion between DHS and DoJ regarding law enforcement activities, the revised NRP designated DoJ as the primary coordinator for law enforcement support functions. The revised NRP also sought to clarify confusion about the respective roles of the PFO and FCO.[25]

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23. Marek, Angie, "Learning the Lessons of Katrina," *U.S. News & World Report*, June 2006. Available at http://www.usnews.com/usnews/news/articles/060605/5neworleans_2.htm.

24. Bowman, Tom, "Reviews Fault U.S. Disaster Plans," *Baltimore Sun*. October 2005. Available at http://www.baltimoresun.com/bal-te.lessons24oct24,0,4703392.story?coll=bal-home-outerrail.

25. National Response Plan, op. cit. The original National Response Plan was updated to allow further clarify roles and responsibilities and to allow a single individual to act as both FCO and PFO: "The FCO manages and coordinates Federal resource support activities related to Stafford Act disasters and emergencies. The FCO assists the Unified Command and/or the Area Command. The FCO works closely with the PFO, SFLEO, and other SFOs. In Stafford Act situations where a PFO has not been assigned, the FCO provides overall coordination for the Federal components of the JFO and works in partnership with the SCO to determine and satisfy State and local assistance requirements. The Secretary may, in other than terrorism incidents choose to combine the roles of the PFO and FCO in a single individual to help ensure synchronized Federal coordination.

Changes to FEMA.   Congress used the 2007 Homeland Security Appropriations Act to legislate changes to the role of FEMA.   One change directs the FEMA administrator to serve as the principal advisor to the President, the Homeland Security Council, and the Secretary of Homeland Security on matters of emergency management.   The legislative language is almost identical to provisions in the Goldwater-Nichols Act that set forth the role of the Joint Chiefs of Staff in the military command structure.[26] In general, this is a beneficial change that adds greater clarity to roles and responsibilities within the homeland security command structure.   At the same time, another change allows the President to temporarily elevate the FEMA administrator to the level of a Cabinet official.[27]   This provision has the potential to confuse matters.   If the FEMA administrator were elevated to a Cabinet level position, what would it mean for the authorities of the Secretary of Homeland Security and for the PFO/FCO structure?   While the law made sure to reiterate that the FEMA administrator reports to the Secretary of Homeland Security, and that the authority of the Secretary within the President's cabinet remains unchanged, Congress appears

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In instances where the PFO has also been assigned the role of the FCO, deputy FCOs for the affected States will be designated to provide support to the PFO/FCO and facilitate incident management span of control."

26. Homeland Security Appropriations Act of 2007, op. cit. According to the 2007 Homeland Security Appropriations Act, "(A) IN GENERAL- The Administrator is the principal advisor to the President, the Homeland Security Council, and the Secretary for all matters relating to emergency management in the United States." Furthermore, `(ii) ADVICE ON REQUEST- The Administrator, as the principal advisor on emergency management, shall provide advice to the President, the Homeland Security Council, or the Secretary on a particular matter when the President, the Homeland Security Council, or the Secretary requests such advice. See also, U.S. Congress, "Goldwater-Nichols Act," PL 99-433, October 1986. Available at http://www.jcs.mil/goldwater_nichol_act1986.html. According to the Goldwater-Nichols Act, "(1) The Chairman of the Joint Chiefs of Staff is the principal military adviser to the President, the National Security Council, and the Secretary of Defense. (2) The other members of the Joint Chiefs of Staff are military advisers to the President, the National Security Council, and the Secretary of Defense." Furthermore, "(e) Advice on Request. The members of the Joint Chiefs of Staff, individually or collectively, in their capacity as military advisers, shall provide advice to the President, the National Security Council, or the Secretary of Defense on a particular matter when the President, the National Security Council, or the Secretary requests such advice."

27. Homeland Security Appropriations Act of 2007, op. cit., section 503 (c)(5) "Cabinet Status."

to have opened the door for future uncertainty and confusion in the homeland security chain of command.

The implications of the changes to FEMA are unclear. On the one hand, the change seems to imply a role for FEMA similar to that of the Joint Chiefs of Staff under Goldwater-Nichols, as a "principal advisor" to the White House and the Secretary. At the same time, does FEMA's increased access to the White House and potential to serve in a cabinet capacity potentially undermine the roles of the Secretary, PFO and FCO, as set forth in the NRP? Do the changes to FEMA add confusion to the already imperfect homeland security chain of command?

Changes to the Domestic Use of the Military. DoD is clearly indispensable when it comes to homeland security. In the midst of a disaster, the public, the media and the government expect the military to take action. DoD's essential role is reflected in the fact that it is the only federal department that the NRP views as providing essential support functions in all fifteen of its national emergency scenarios.

The role of the DoD in homeland security missions is governed by several important conditions. First, DoD envisions its role as constrained to providing support to civil authorities for emergency management operations during incidents of national significance.[28] The limits on DoD to act within the United States stem from a long legal tradition. The Posse Comitatus Act (PCA) of 1878 generally prohibits the military from acting in a law enforcement capacity within the United States. As well, the Insurrection Act seeks to limit the powers of the Federal government to use the military for law enforcement.

Specific exceptions to these constraints include the National Guard, which is allowed to act in a law enforcement capacity while acting under Title 32 or State Active Duty status. As well, the Army can act under Title 10 to provide law enforcement support so long as

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28. Department of Defense, *Strategy for Homeland Defense and Civil Support*, June 2005. Available at http://www.fas.org/irp/agency/dod/homeland.pdf. See also, NORTHCOM's description of emergency management operations. Available at http://www.northcom.mil/about_us/vision.htm.

authorities at the State level have explicitly requested such support.[29] The Coast Guard is also exempt from the PCA.

In any event, military assets under U.S. Northern Command can only be utilized when directed by the President or Secretary of Defense. As such, they exist in a command structure parallel to and supporting, but not within, the homeland security chain of command established by the NRP.

This arrangement proved successful on some fronts and problematic in others during Katrina.

DoD's deployment of 50,000 National Guard members and 22,000 Title 10 active duty military personnel was the largest and fastest civil support mission ever in the United States.[30] During Hurricane Katrina, the Coast Guard and the National Guard operated successfully under Title 32 status. National Guard forces represented more than 70% of the military force for Hurricane Katrina, reinforcing the NRP's designation of the National Guard as the military's first responders to a domestic crisis.[31] The Coast Guard's flexible, mission-driven approach, ability to work well with other agencies, and history of operating in a domestic context contributed to their effectiveness during Katrina.[32]

Nonetheless, Assistant Secretary of Defense McHale[33] admitted that the active-duty military and guard and reserve contingents were not

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29. Existing laws, including Title 10, Chapter 15 (commonly known as the Insurrection Act), and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Title 42, Chapter 68), grant the President broad powers that may be invoked in the event of domestic emergencies, including an attack against the Nation using weapons of mass destruction, and these laws specifically authorize the President to use the Armed Forces to help restore public order.

30. McHale, Paul, Assistant Secretary of Defense for Homeland Defense, speech, "Homeland Defense - Looking Back, Looking Forward," Heritage Foundation, July 14, 2006. Available at http://www.heritage.org/Press/Events/archive.cfm.

31. Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, op. cit., p. 202. Available at http://a257.g.akamaitech.net/7/257/2422/15feb20061230/www.gpoaccess.gov/katrinareport/military.pdf.

32. Orr, Bob, "Katrina Makes Coast Guard Heroes," *CBS News*, September 19, 2005. Available at http://www.cbsnews.com/stories/2005/09/19/eveningnews/printable859663.shtml.

33. McHale, op. cit.

well integrated and not as mutually reinforcing as they should have been. He also conceded that many of the search-and-rescue missions were not executed efficiently, leading to cases where more than one helicopter showed up at the same site. McHale noted that the National Guard needed better interoperability communications and that first responders should communicate seamlessly with the Guard and active duty military forces.

One of the most significant problems faced during Katrina was the trigger mechanism by which military assets are activated in support of homeland security efforts. Much has been made of the critical delay by state officials in invoking federal assistance and how that contributed to delays in rescue and relief missions.[34] The White House and Homeland Security officials were under extreme pressure to get control of the situation, but when the President asked the governors of Louisiana and Mississippi to cede their National Guard troops to federal control, both governors refused.[35]

In response to the conflict between state and federal officials over control of National Guard assets, the 109th Congress modified the Insurrection Act to give the President greater authority to use troops domestically.[36, 37] Section 1076 of the 2007 Defense Authorization Act gives the President the authority to deploy troops in the event of a rebellion or during disasters when state authorities are overwhelmed and incapable of maintaining public order.[38] In those circumstances,

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34. Cooper and Block, op. cit. p. 213-216.

35. Ibid.

36. National Governors Association, "Governors Urge Conferees to Strike Language Federalizing Guard, Reserves During Disasters," September 2006. Available at http://www.nga.org/portal/site/nga/menuitem.6c9a8a9ebc6ae07eee28aca9501010a0/?vgnextoid=39a9449af77ad010VgnVCM1000001a01010aRCRD&vgnextchannel=759b8f2005361010VgnVCM1000001a01010aRCRD.

37. Leahy, Senator Patrick (D-VT) speculated that Section 1076 was a direct response to the refusal of Mississippi and Louisiana to cede control of National Guard forces to Federal authority when President Bush requested it. Leahy's statement on the National Defense Authorization act is available at http://leahy.senate.gov/press/200609/092906b.html.

38. U.S. Congress, John Warner National Defense Authorization Act for Fiscal Year 2007, S. 2766/ H.R. 5122, 109th Congress. Available at http://www.govtrack.us/congress/billtext.xpd?bill=h109-5122. For a general discussion of legal issues and

the President does not have to wait for the state to grant permission to bring in federal troops or to take control of the National Guard.

The military chain of command model, in which the Secretary of Defense and the CINCs have clear and decisive authority over all relevant defense assets, is not readily portable to the homeland security bureaucracy and can not account for military and non-federal assets that will not subordinate themselves to a homeland security chain of command. The lack of a unifying authority makes homeland security distinct from the military.

Going forward, homeland security officials will need to continue to find ways to better coordinate with the military chain of command and military assets. DoD itself will need to continue to clarify its roles and capabilities when it acts in a civil support capacity. As well, the mechanisms by which military assets are utilized by state and local officials, used to support federal homeland security activities, and mobilized by the President for domestic purposes need to be further examined and refined.

IV. Other Goldwater-Nichols Components

Training and Strategic Planning and Budgets

Lacking an easy organizational fix for homeland security, it is essential to focus on measures that can increase the likelihood of efficient collaboration and cooperation. Strengthened "joint-service" training and rotations make sense for homeland security as they proved successful under Goldwater-Nichols.

Human Capital, Training and Rotations

Goldwater-Nichols created a joint officer management system, which included joint training programs and linked individual career advancement to rotations outside of their home organizations. The benefits to homeland security of improved and joint training, out-of-service rotations, and career incentives have been widely acknowledged.

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the domestic use of federal troops, see Elsea, Jennifer K., *The Use of Federal Troops for Disaster Assistance: Legal Issues*, Congressional Research Service, September 16, 2005. Available at http://fpc.state.gov/documents/organization/53685.pdf.

The Homeland Security Appropriations Act of 2007 sought to promote jointness by providing career incentives for individual homeland security personnel:

> *The Rotation Program established by the Secretary shall provide middle and senior level employees in the Department the opportunity to broaden their knowledge through exposure to other components of the Department; expand the knowledge base of the Department by providing for rotational assignments of employees to other components; build professional relationships and contacts among the employees in the Department; invigorate the workforce with exciting and professionally rewarding opportunities.[39]*

Similarly, other reforms have sought to improve training and create jointness among intelligence professionals, which is essential for counterterrorism and homeland security purposes. The Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) requires the ODNI to establish professional intelligence training and to review and revise the curriculum for such training. Additionally, the IRTPA requires the ODNI to provide for the cross-disciplinary education and training of intelligence community personnel, with a particular focus on establishing cross-disciplinary education and joint training.[40]

In practice, joint operating and training efforts for counterterrorism and homeland security are occurring at a number of levels. The FBI's more than 100 Joint Terrorism Task Forces combine federal and local law enforcement professionals to work side by side in shared field offices. The Joint Forces Terrorist Training Center is being developed to combine federal, state, and local first responders to train together to prevent terrorist attacks. In addition, there are 26 Terrorism Early Warning (TEW) Groups modeled after initiatives by the Los Angeles County Sheriff's Department. The TEW Group was started to analyze trends for potential terrorist attacks within Los Angeles but have now been expanded nationwide. These kinds of joint activities are critical

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39. Homeland Security Appropriations Act of 2007, op. cit.

40. United States Congress, "Intelligence Reform and Terrorism Prevention Act of 2004," P.L. 108-458 § 1042, December 2004. Available at http://thomas.loc. gov/cgi-bin/query/D?c108:4:./temp/~c108fz0wAS.

to ensure that state and local officials are working together to gather information from a wide array of sources.[41, 42]

Within DHS, training and rotation programs face a number of challenges. Chief among them is the difficulty of creating a stable cadre of career homeland security professionals at a time when DHS, as an organization, is suffering significant integration problems stemming from its creation. DHS continues to suffer retention issues, culture and morale problems,[43] heavy reliance on outside contractors and detailees,[44] shortages of career professionals, and recruiting challenges.[45]

Looking forward, homeland security rotation and joint training programs should be expanded to increasingly include non-DHS agencies involved in homeland security. Programs should regularly provide rotations at other agencies with significant homeland security roles and responsibilities, including Departments of State, Energy, Justice, Defense, Health and Human Services, and the intelligence community, among others.[46] As well, joint training and rotations should be expanded to increasingly allow temporary personnel exchanges and joint training with state and local offices, the private sector and non-governmental organizations (NGOs).

41. Martin, Robert A., "Joint Terrorism Task Force: A Concept that Works," Anti-Defamation League Law Enforcement Agency Resource Network. Available at http://www.adl.org/learn/jttf/default.asp.

42. Federal Bureau of Investigation, "Protecting America Against Terrorist Attack: A Closer Look at the FBI's Joint Terrorism Task Forces," Federal Bureau of Investigation Press Room, 12/01/2004. Available at http://www.fbi.gov/page2/dec04/jttf120114.htm.

43. Lilly, Scott, "An Analysis of Employee Attitudes at Federal Departments & Agencies," Center for American Progress, October 17, 2005. Available at http://www.americanprogress.org/issues/2005/10/b1110801.html.

44. Rabkin, Norman J., "Overview of Department of Homeland Security Management Challenges," U.S. Government Accountability Office, GAO05-573T, April 2005. Available at http://www.gao.gov/new.items/d05573t.pdf.

45. Losey, Stephen, "Allen carves out prominent intelligence role for DHS," interview with Charlie Allen, Chief Intelligence Officer, DHS, *Federal Times*, September 04, 2006. Available at http://www.federaltimes.com/index.php?S=2075300..

46. Rabkin, op.cit.

Strategy and Budgets

Goldwater-Nichols required DoD to increase its focus on strategic planning. Specifically, it required that the President annually submit to Congress a comprehensive report on U.S. national security strategy. The requirement was augmented and refined over the years with the establishment of the Future Years Defense Program (FYDP)[47] and with the Quadrennial Defense Review in 1996.[48]

The Homeland Security Act of 2002 requires the DHS to prepare a Future Years Homeland Security Program similar to DoD's FYDP. Congress amended the Homeland Security Act with the Homeland Security Financial Accountability Act of 2004[49] to make more specific the requirements on DHS to develop long-term strategies, establish priorities, and tie strategies and plans to budgets and resources.

DHS' ability to deliver robust strategies, plans and budgets remains very much a work in progress. We continue to lack a sensible long-term homeland security planning process as well as the ability to measure the performance and efficacy of homeland security programs against objective benchmarks. Congress has yet to require DHS to undertake periodic strategic reviews[50] similar to the Quadrennial Defense Review required of the DoD.

Currently, defense planning documents treat homeland security as an afterthought: "They are treated, if at all, as separate line items buried deep within the budget."[51]   Nor is there mechanism to assess how

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47. Taibl, Paul, "The $60 Billion Defense Modernization Goal: What, When, How Risky?," *Business Executives for National Security*, March 1998. Available at http://www.bens.org/tail_brief1.html.

48. National Defense Authorization Act of 1996, Public Law 104-201, "Subtitle B-Force Structure Review," sections 921-926. Available at http://www.fas.org/man/docs/qdr/quad_leg.html.

49. U.S. House of Representatives, "Department of Homeland Security Financial Accountability Act," H.R. 4259, Public Law No: 108-330, October 2006. Available at http://www.govtrack.us/congress/bill.xpd?bill=h108-4259.

50. See, for example, the National Strategy for Homeland Security Act of 2004, S 2708. The bill, sponsored by Senator Lieberman (D-CT), was read twice and referred to the Senate Committee on Government Affairs but never became law. Available at http://www.govtrack.us/congress/bill.xpd?bill=s108-2708.

51. Peters, John E., "Understanding homeland Security," RAND Corp., 2002, based

DoD and DHS fit together in the overall national security equation.[52] Congress should require DHS to conduct quadrennial reviews to assess homeland security risks, strategies, structures, resources, and effectiveness, as well as associated planning budgets.[53]

V. Beyond Goldwater-Nichols: Network-Centric Homeland Security

The tension between centralization/hierarchy and flattening and empowering distributed nodes in an organization is age-old. It has posed a dilemma ever since the advent of modern organizational and management theory. The problem is well known: Unity of command can lead to excessive chains of authority which hinder communication, innovation and flexibility. Conversely, too much flexibility can lead to lack of decisiveness and create conflicting or inefficient efforts.

Dramatic changes to information technology over the last decade have made distributed models of management increasingly viable as an alternative or a complement to more traditional hierarchical management models. The implications of those changes are in their early stages in the military sphere, and are directly relevant to the homeland security realm.

In general terms, individuals empowered with computing and communications technology and connected by networks 1) have a greater capacity to do more for and by themselves; 2) can do more in loose collaboration with others without having to be organized in traditional hierarchies; and 3) can be more effective within formal hierarchies owing to faster and more efficient information distribution, communications, collaboration, innovation and decision-making.[54]

on excerpts from *Preparing the US Army for Homeland Security: Concepts, Issues and Options,* Eric V. Larson, and John E. Peters, RAND, 2000. Available at http://www.fathom.com/course/21701714/session5.html.

52. Carafano, James J., "Seeing the Big Picture: Homeland Security Lacks Unified Control," *Defense News,* March 28, 2005. Available at http://www.defensenews.com/story.php?F=748746&C=commentary.

53. Ibid. See also, Housman, Robert, "A Homeland Security Agenda for the First 100 Days of a Democrat-Led Congress," *Homeland Defense Journal*, December 2006.

54. For academic analyses of the social impacts of networks, see, for example, Benkler, Yochai, *The Wealth of Networks: How Social Production Transforms Markets and*

The inherently fragmented nature of the homeland security landscape makes it necessary to find ways to achieve greater unity of effort from actors and assets distributed widely among the federal civilian bureaucracy, the military, federal law enforcement agencies, state and local governments and law enforcement, the private sector, and NGOs.

Given the limits of a top-down Goldwater-Nichols-like approach to streamline the homeland security chain of command, homeland security should look to other areas of military doctrine for valuable approaches, strategy and lessons. Current doctrines of Network-Centric Warfare (NCW) are highly relevant to the homeland security context. NCW recognizes the limits of hierarchical command and control structures and seeks to improve decision-making by leveraging improved information and communications among participants distributed throughout a network.

The implications of networked technologies for military operations began to come to the fore in the mid-1990s. The military's concept of NCW first appeared in the open literature in 1998.

> *NCW promises faster, more precise, more decisive operations thanks to information sharing.…NCW is oriented to increasing the operational freedom of choice for military commanders…[At the same time] the military context is an environment of strict control and direction.…If too much operational freedom is delegated to subordinate units, control is lost to commanders; if too much control is retained, operational flexibility is compromised.*[55]

NCW has also been defined as "the conduct of military operations using networked information systems to generate a flexible and agile military force that acts under a common commander's intent, independent of the geographic or organizational disposition of the individual elements, and in which the focus of the war fighter is broadened away from individual, unit or platform concerns to give primacy to the mission and responsibilities of the team, task group or coalition."[56]

Freedom, Yale University Press, May 16, 2006. p. 8.

55. Mitchell, Paul T., "Network Centric-Warfare: Coalition Operations in the Age of U.S. Military Primacy," Adelhi Paper 385, International Institute for Strategic Studies, December 2006. p. 27-32.

56. Fewell, M.P. and Mark G. Hazen, "Network Centric-Warfare - Its Nature and

Applied to homeland security, a network-centric approach would mean that the right information must be available to the right people at the right time in the right form, but also it must be put to the right use. It is essential to note that network-centricity is not just about technology and gadgets. Human aspects and relationships are essential. The numerous examples of poor coordination during the response to Katrina illustrate the value of information sharing, empowerment of individuals in the field, and distributed decision-making in the absence of clear unified command authority.

Various components of a network-centric homeland security framework are arguably in place. At a policy level, law and executive orders have called for greater cross-organizational collaboration for counter-terrorism and homeland security via improved business practices and network technologies.[57] Organizationally, national strategy documents have endeavored to streamline the homeland security chain of command to the greatest extent possible.[58] At the same time, nascent technology programs are seeking to better link federal and non-federal actors.[59, 60] Finally, new initiatives are creating intermediate hubs between the federal government and society at large. These intermediary or regional nodes can help distribute information from the federal government to the field; collect, vet and improve information that is sent from the field up the official chain of command; and distribute information laterally to other intermediary/regional nodes.[61]

Modeling," September 2003. Available at http://www.dsto.defence.gov.au/publications/2596/.

57. 2004 Intelligence Reform and Terrorism Prevention Act, op. cit. The act calls for the creation of an Information Sharing Environment (ISE) and the creation of the ISE Program manager. See also White House, Executive Order 13356 on "Strengthening the Sharing of Terrorism Information to Protect Americans," August 2004. Available at http://www.fas.org/irp/offdocs/eo/eo-13356.htm.

58. National Response Plan, op. cit. Also see Notice of Change to the National Response Plan, op.cit.

59. Department of Homeland Security, "Homeland Security Information Network," Available at http://www.dhs.gov/xinfoshare/programs/.

60. Thompson, Clive, "Open Source Spying," *New York Times Magazine*, December 3, 2006. Available at http://www.nytimes.com/2006/12/03/magazine/03intelligence.html?pagewanted=1&ei=5090&en=46027e63d79046ce&ex=1322802000.

61. Allen, Richard and Floyd Kvamme, "Regionalizing Homeland Security: Unifying

While nascent, many of the structures for an effectively self-governing network-of-networks for homeland security are being put in place today. One can envision a future where the lack of unitary authority within the homeland security chain of command does not lead to coordination failures in the field following an incident of national significance. Instead, what we lack in definitive homeland security command and control is more than made up for by empowered individuals and nodes in the network. Over time, homeland security players will build established trusted relationships across traditional bureaucratic, regional, and sectoral (e.g. private vs. governmental) boundaries and seams. As well, we will be better able to create effective ad-hoc teams post-disaster because of a more mature set of intermediary institutions, better technology, and a greater ability by Washington to accept that homeland security will never be a unified system, but rather a system of systems, and to increasingly trust information origination and decision-making outside of traditional hierarchies and stovepipes.

In fact, the concept of 'network-centric homeland security' akin to 'network-centric warfare' may be a far more effective model than Goldwater-Nichols to improve homeland security going forward. NCW concepts are highly applicable in a homeland security environment where assets are broadly distributed across a myriad of actors who do not fall under a unified chain of command. Such an approach recognizes the limits of top-down fixes to an environment where the federal government does not have command authority over all of the necessary homeland security assets and capabilities, and where operational effectiveness will be more about collaboration and cooperation than about command and control.

VI. Conclusion

Goldwater-Nichol's ability to improve military jointness relied primarily on its ability to streamline the military chain of command and clearly define roles and responsibilities among key stakeholders. Its successful focus on inter-service rotations and joint training helped reduce inter-service rivalry and foster greater cooperation. Goldwater-Nichols also

National Preparedness and Response," June 30, 2006. Available at http://www.gwu.edu/~dhs/reports/hspi_region_7_10_06.pdf.

stressed the need to focus on strategic planning and align strategies with resources.

While Goldwater-Nichols can provide general lessons to improve homeland security coordination and effectiveness, its ability to serve as a comprehensive model for homeland security reforms has its limits. This paper comes to conclusions and makes recommendations in four areas.

First, homeland security will not be able to develop a chain of command that begins to approach the military command structure articulated in Goldwater-Nichols. Civilian agencies will simply not respond like a military organization. Senior homeland security officials do not wield command authority over components of other federal departments. The military chain of command is separate from the homeland security chain of command. The NRP explicitly put DoJ in charge of federal law enforcement efforts. State, local, private sector and NGO assets do not take orders from DHS. While fixes to the NRP since Katrina address some of the coordination and decision-making problems exposed by Katrina, they obscure the fact that the clarity and decisiveness embedded in the military chain of command by Goldwater-Nichols is unachievable for homeland security.

Second, efforts at homeland-security joint training and rotations need to mature and be increasingly extended beyond DHS and the ODNI. Joint training and rotation programs should provide greater exposure to the full range of federal, state, local and non-governmental actors that play an important homeland security role. Employee turnover at DHS needs to be reduced and recruitment improved in order for joint training and rotations to have the intended effect on promoting jointness within a professional homeland security cadre.

Third, to improve homeland security coordination and effectiveness, it is essential to develop processes for long-term strategic planning. In the absence of a robust strategic planning process, too many homeland security programs are ad hoc, reactive, and do not contribute to a coherent vision. Strategies should be based on comprehensive and up-to-date threat and vulnerability assessments, establish clear national priorities, provide definitive guidance for action, and establish goals

against which activities and programs can be measured. Strategic plans should be tied to robust assessments of capabilities and to a multiyear budgeting process that aligns missions and resources. Congress should require DHS to conduct quadrennial homeland security reviews. Congress should press DHS to fully meet their statutory requirement to produce multiyear budgets in the form of a Future Years Homeland Security Program that links operational and financial requirements together to meet strategic goals. It is essential that a homeland security strategic planning and budgeting process also be informed by the strategic planning of the DoD. Homeland security, homeland defense, and national security must all be viewed as part of a whole. The full national security game plan must do a good job of integrating both offense and defense.

Fourth, since Goldwater-Nichols does not provide a model for the kind of management that homeland security will require, policymakers should increasingly look to current military doctrines of NCW to improve homeland security coordination and management. The wide variety of actors—within federal civilian agencies, the military, federal law enforcement and intelligence, within state and local governments and law enforcement, and outside of the government in the private sector and NGOs—strongly suggest that homeland security will never achieve unified authority like that which exists in the military chain of command. When future disasters strike, the homeland security chain of command will remain fragmented, and management will necessarily be based more on matrixed management than on command and control authority. With centralization of authority unachievable, homeland security will need to rely on distributed but coordinated management. Achieving that requires creating trust among homeland security stakeholders, efficient communication between players at multiple levels, an ability to rely on the edges of the network to gather information, and an empowerment of the edges of the network to make decisions based on the best available local knowledge but within the framework of the overall mission. To complement and address the limits of a Goldwater-Nichols approach to homeland security, the concept of "network-centric homeland security" should increasingly play an important and guiding role.